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October 16, 1992

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FILE

Donna R. Searcy
Secretary
Federal Communications Commission
Room 222
1919 M St., N.W.
Washington, D.C. 20554

Re: ONA Tariffs of the BOCs, CC Docket No. 92-91

Dear Ms. Searcy:

Sprint hereby files the original and seven copies of its Comments on the direct cases filed by the BOCs in the above-captioned proceeding. A copy of this filing is also being served upon Downtown Copy Center for dissemination to any interested party.

Sprint today is also filing an Appendix to the above-referenced Comments which discusses the redacted cost models used by the BOCs to develop cost and investment figures for ONA services, as well as the report on these models prepared by Arthur Andersen & Co. Pursuant to nondisclosure agreements entered into with the BOCs, and Section 0.459 of the Commission's Rules, Sprint requests that this Appendix not be made available for public inspection in order to protect the purportedly proprietary information discussed therein. Copies of Sprint's Comments, including the Appendix, are being served only upon the BOCs and members of the Common Carrier Bureau.

If these arrangements are not satisfactory, Sprint is willing to abide by whatever alternative the Commission considers acceptable.

Sincerely,

Norina Moy

Norina Moy
Manager, Federal
Regulatory Affairs

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Open Network Architecture Tariffs) CC Docket No. 92-91
of Bell Operating Companies)
_____)

COMMENTS

Sprint Communications Company LP hereby respectfully submits its comments on information provided by the BOCs in support of the BSE rates contained in the BOCs' ONA access tariffs. This information includes the direct cases filed by the BOCs on May 18, 1992, in response to the Commission's ONA Investigation Order;¹ the redacted cost models used to develop investment and cost figures for ONA services; and the independent auditor's review of the SCIS and SCM cost models.² As discussed below, the information provided remains inadequate to ascertain the reasonableness of the ONA rates now in

¹ONA Tariffs of BOCs, CC Docket No. 92-91, 7 FCC Rcd 1512 (1992).

²Sprint's discussion of the latter two issues are contained in the Appendix to these Comments. Sprint was forced to sign nondisclosure agreements with the BOCs in order to gain access to the SCIS and SCM computer models and to the report on such models prepared by an auditor chosen by the BOCs. Sprint does not believe that its Appendix in any way compromises the BOCs' alleged proprietary information; certainly, the Appendix could be safely shared with other intervenors who have signed the nondisclosure agreement. Nonetheless, Sprint has requested confidential treatment of this Appendix, and, absent Commission directive to the contrary, will serve the Appendix only on the Common Carrier Bureau and the BOCs.

effect. Even more serious, the entire proceeding has shown that it is virtually impossible to conduct a meaningful rate investigation when the regulated entities (the BOCs) are given both virtually unlimited latitude to set their prices and control over what information is provided in support of those prices.

I. THE DIRECT CASES FAIL TO EXPLAIN WHY THE DIFFERENCES IN THE BOCs' BSE COST AND INVESTMENT ESTIMATES ARE JUST AND REASONABLE.

In their Direct Cases, the BOCs assert that their ratemaking methodologies and assumptions are reasonable. They claim that comparisons between BOCs of loading factors or estimates of direct costs used are inapt because costing and pricing methodologies, definitions, technology mixes, market conditions, etc., vary from BOC to BOC (see, e.g., BellSouth, pp. 32-36). Furthermore, variation among BOCs is to be expected given the Commission's "flexible cost-based approach" to pricing new services, including ONA elements.³

The BOCs certainly are not identical. However, it remains difficult to credit claims that BSE direct cost and investment estimates which differ across BOCs by orders of magnitude can all be just and reasonable. The BOCs have failed to adequately explain why it is reasonable for them to

³ Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for ONA (CC Docket No. 89-79) and Policy and Rules Concerning Rates for Dominant Carriers (CC Docket No. 87-313), 6 FCC Rcd 4524, 4531 (paras. 38-44) (1991) ("Part 69/ONA Order"), recon., 7 FCC Rcd 5235 (1992).

use assumptions or methodologies which are so dramatically different as to generate BSE cost and investment estimates which vary by 2400 to 2700 percent.⁴

The Commission has long used the performance and rates of other LECs as benchmarks against which to measure an individual LEC's proposed rates. For example, many of the disallowances ordered by the Commission in past annual access filings have been based upon a review of data filed by other carriers.⁵ Although each BOC faces some unique circumstances, the Commission has appropriately recognized that there are many factors which have a similar effect on all of the BOCs.

The pricing flexibility granted to the LECs in the Part 69/ONA Order was supposed to be accompanied by cost support information sufficient to justify the reasonableness of the proposed rates. Such information has not been provided. As discussed below, severely restricted access to the cost models used to develop BSE rates, and heavy redaction of the BOCs' own input data (as opposed to vendor data such as switch manufacturers' discounts) severely hampered the task of evaluating the BSE rates.

⁴See Sprint's November 26, 1991 "Petition to Reject or Alternatively Suspend and Investigate" the BOCs' ONA access tariffs, pp. 16-17 and Attachment 6.

⁵For example, the Commission has used benchmark comparisons or cross-sectional analyses to estimate inside wire expenses, acceptable composite depreciation rates pending represervation, and various expenses and investment levels. See, e.g., Annual 1990 Access Tariff Filings, 5 FCC Rcd 4177 (1990).

II. INFORMATION RELEVANT TO THE RATE ANALYSIS WAS WITHHELD.

The BOCs withheld an enormous amount of information relevant to their BSE rate development process from intervenors. For example, the following information was unavailable even to intervenors who entered into strict nondisclosure agreements with the BOCs:

- the equations used to compute unit investment and unit costs;

- most of the SCM/SCIS technology modules. The BOCs' responses to Question 4 of the issues designated for investigation⁶ demonstrate the significant impact of switch technology on BSE investment and cost estimates. However, intervenors' review of the SCM/SCIS models was limited to only one of the several types of switch technologies used by the BOCs.⁷ Thus,

⁶This question directed those carriers that based their BSE rates in part on costs associated with 1ESS and 1AESS switches to explain why including costs for this switching equipment in BSE rate development is reasonable; to provide a quantitative description of the mix of switch technologies assumed; and to describe the effect of using embedded switch technology. Some of the BOCs' responses were quite dramatic. Ameritech, for example, estimated that excluding 1AESS technology resulted in BSE cost changes ranging from -84.85 percent (for queuing) to +120.83 percent (for circular multiline hunt group) (Ameritech Attachment 2).

⁷In addition, access to the redacted SCIS/SCM models was limited to a few days' review on Bellcore premises, without a printer, by two cost analysts per intervenor. Representatives of different intervening companies (all of whom were required to sign the BOC-prepared nondisclosure agreements) also have not been allowed to discuss their findings with each other, even though interaction among interested parties clearly results in a more thorough and thoughtful analysis. Sprint would note that the question of whether different intervenors

(Footnote Continued)

intervenors cannot be assured of the reasonableness of any of the models which computed BSE costs and investments based upon switch technologies which they did not review. For example, intervenors were unable to review the consistency of model results across switch technologies.

- detail on various recurring direct costs (capital costs such as the cost of money, depreciation and income taxes, and operating expenses such as maintenance, administrative expenses and other operating taxes). Indeed, certain cost elements (such as "getting started costs") are not even defined.

- BOC-specific feature inputs, such as CPU capacity, processor utilization or feature busy hour usage.

- US West did not provide direct access to the computer spreadsheet used to determine investment and costs for ANI, the single most important element to be unbundled.⁸ It is not clear how many other stand-alone (*i.e.*, outside of SCIS and SCM) modules or programs the BOCs used, but did not provide access to, to determine BSE rates.

The BOCs emphasize in their Direct Cases the "forward looking" nature of SCIS and SCM. BSE rates rely upon numerous

(Footnote Continued)

may discuss SCIS/SCM with each other has been pending before the Commission since March 1992 (see MCI's Application for Review of the Commission's January 31 SCIS Order (DA 92-129)).

⁸While US West did offer to run specific ANI sensitivity analyses requested by Sprint, Sprint considers such offer to be an extremely poor substitute for actual access to the module. It has been Sprint's experience that direct review of the software provides insight, and suggests further avenues for investigation, which are not apparent when access is filtered through an intermediary.

BOC forecasts: a cost of money (all but one of the BOCs used a cost of money which exceeds the authorized interstate rate of return) to estimate the future market cost of acquiring new investment; switch utilization and replacement; and estimates of technology mixes several years into the future. The Direct Cases generally are limited to statements that these forecasts reflect the BOCs' best estimates of future conditions. The Direct Cases do not demonstrate why such estimates should be considered reasonable. For example, on the issue of whether a cost of money in excess of 11.25 percent is reasonable (Question 3 of the issues designated for investigation), the BOCs simply assert that their cost of money inputs are based on forecasts of factors such as debt to equity ratios, market-determined rates for debt and equity, and expected increases in competition, and that the cost of money cannot be equated to the Commission's authorized rate of return. Bald assertions such as those contained in the Direct Cases can hardly be considered justification for the levels used or an adequate response to the Commission's question.

The Commission has recognized the problems associated with examining a carrier's forecasts, even under rate of return regulation when carriers were required to provide detailed cost support information.⁹ The task of evaluating

⁹One reason why the Commission decided to adopt a system of price cap regulation was to reduce the reliance upon forecasted data. See, e.g., Policy and Rules Concerning Rates for Dominant Carriers, 4 FCC Rcd 2873, 2925 (para. 107) (1989).

the BOCs' "forward looking" ratemaking process, and thus the resulting BSE rates, is virtually impossible when the BOCs withhold crucial information.

Information such as that listed above has a direct impact on BSE rates, and its absence from both the public and the "confidential" (i.e., provided pursuant to nondisclosure agreements) records precludes full analysis of the rates. Further, in considering the BOCs' claims in this investigation that their ONA ratemaking information is too confidential to release, the Commission should bear in mind that this proceeding will most likely be the only opportunity to ensure that the ONA access rates are just and reasonable. Cost support requirements for services already subject to price cap regulation are minimal. Once ONA rates are incorporated into the price cap regime, the BOCs' ONA filings will be even more obscured.

III. SWB's REQUIREMENT THAT IXCs SUBMIT ASRs IS UNREASONABLE.

The Commission directed Southwestern Bell (SWB) to explain why customers planning to use the same features and functions under ONA as they used in a feature group arrangement should be required to submit ASRs (ONA Investigation Order, p. 5). SWB asserts (Direct Case, pp. 17-20) that it must receive an ASR if ONA is to be implemented accurately; that no objections to its ASR process for converting from FGs to BSA/BSEs were raised when SWB presented its requirements in various Ordering and Billing Forum (OBF) planning meetings; and that "conversions of existing feature group services to BSA/BSE

formats, even when no features or functions are changed, is not a simple matter of a records change" (id., p. 18). Finally, SWB complains of the cost and burden associated with generating ASRs for all of the switched access circuits provided (id., p. 19).

SWB mischaracterizes the OBF's role and actions regarding ONA. The OBF's efforts on the ONA issue have been directed towards developing a uniform ASR document (e.g., by defining BSE and BSA field requirements), and procedures--in particular, mechanical processes--to govern the exchange of ASRs and firm order confirmations between access customers and access providers. Sprint has participated actively in these OBF activities. The OBF is not the appropriate forum to discuss individual company implementation plans such as whether conversion ASRs must be submitted.

Furthermore, while SWB did raise the ASR issue before the OBF, its presentation was made prior to its November 1991 ONA tariff filing, and thus its conversion plan was considered to be preliminary. In contrast, the ASR requirements set forth in SWB's interstate access tariff clearly constitute SWB's official position on the procedures for effecting the transition from FGs to ONA. Thus, it should have been no surprise to SWB that Sprint would have used the tariff review process to voice its concerns about SWB's ASR policies. Indeed, one of the primary reasons for subjecting tariffs to public review is to provide interested parties an opportunity to express their concerns about the terms and conditions under which access is provided.

It is not clear why SWB, alone among the BOCs, has included in its tariff the requirement that IXCs submit ASRs to convert existing FGs to ONA equivalents. Although all of the BOCs have not yet provided Sprint with detailed conversion plans, at least one RBOC does not require ASRs to convert existing facilities to their BSA/BSE equivalent.¹⁰ SWB has not explained why its transition plan is "completely dependent upon the receipt of an ASR" (p. 17) or why, if no features or functions are changed, the conversion is anything more than a record change. There is no apparent reason why routing patterns or other information in the customer record should be affected by renaming a feature group to the identical BSA/BSE combination.¹¹ Sprint understands that an ASR is the "trigger" for downstream processes such as the "ordering, design, provisioning" of access service, and there is no dispute that an ASR should be submitted when an IXC requests new access facilities from the LEC. However, since the issue here is maintenance of existing facilities rather than the provision of new access service and facilities, it remains unclear to Sprint why conversion ASRs are necessary.

¹⁰ Ameritech has stated that "[u]nless a customer is otherwise modifying existing services, only written notice [of intent to switch to the unbundled ONA arrangement] is required." See Ameritech's letter to the Chief of the CCB dated March 3, 1992, p. 5.

¹¹ The burden on IXCs of converting to ONA from packaged feature groups is increased if, as SWB implies, conversion of existing circuits to their identical BSA/BSE equivalent may result in unintended traffic routing changes. All of the BOCs should explicitly state the degree to which this is a risk.


Finally, Sprint agrees with SWB that it is costly and burdensome for any party to generate ASRs for existing switched access circuits being converted from feature groups to their BSA/BSE equivalents.¹² It is precisely for this reason that Sprint objected to SWB's requirement that ASRs be submitted for existing trunks. To require that IXC's bear the expense and effort of submitting ASRs, when IXC's are expected to derive no benefit from the unbundling of feature group access, is unreasonable.¹³


¹²Although SWB apparently requires ASRs for individual access facilities, it implies (Direct Case, p. 19) that it might be able to accommodate some "higher level" (e.g., a per LATA or per customer basis) authorization. Sprint has suggested that, if conversion to unbundled BSA/BSEs remains mandatory (petitions for reconsideration of this point are pending before the Commission in CC Docket No. 89-79), the BOCs should accept a letter from their access customers detailing which circuits in a given LATA, as of a given date, the customer wishes to convert to the ONA equivalent (see Sprint letter to R. Firestone, Chief, CCB, dated January 31, 1992, pp. 2-5). Sprint's proposal is less burdensome than issuing ASRs for individual access facilities. SWB has not indicated whether Sprint's proposal meets SWB's needs.

¹³As Sprint has explained (see, e.g., Comments filed in CC Docket No. 89-79 on September 30, 1992, pp. 4-6), neither IXC's nor ESPs derive any appreciable benefit from the currently effective interstate ONA access tariffs. Only the BOCs support ONA in its current form, presumably because an ONA regime (whether sufficient to satisfy the Computer III goals or not) must be implemented before BOC structural separations requirements may be lifted.

Respectfully submitted,

SPRINT COMMUNICATIONS COMPANY LP


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Its Analysts

Its Attorney

October 16, 1992

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Comments" (excluding Confidential Appendix) of Sprint Communications Company L.P. was delivered by hand on this the 16th day of October, 1992, to the below-listed parties:

Downtown Copy Center
1919 M Street, N.W.
Room 246
Washington, D.C. 20554


Ruth Goddard

October 16, 1992